

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION II**

PETER A. CRAWFORD,  
DEBORAH C. MILES,  
co-trustees and co-executors,  
Appellants,

v.

LINDA FRANKLIN,  
Respondent.

No. 37902-3-II

UNPUBLISHED OPINION

Van Deren, C.J. — Juliet Crawford received the benefit of the senior citizen property tax exemption between 1995 and 1999. In 2000, she received a temporary boost in her income, which disqualified her from the exemption. She never reapplied for the exemption. She passed away in November 2002, without having paid her property taxes that year. In 2003, her estate paid the property taxes due on her home, plus interest. It subsequently applied for the exemption and sought a refund for taxes it alleges to have overpaid for the period before Mrs. Crawford's death.

The Board of Tax Appeals (BTA) and the superior court rejected the estate's claims. Specifically, the trial court determined that the exemption statute requires *ownership* and *occupation* of property by the senior citizen claiming the exemption at the time he or she requests

the exemption. We reverse because Clark County concedes that Mrs. Crawford would have obtained the exemption had she applied for it at the correct time and because her estate has the right to receive a tax refund.

#### FACTS<sup>1</sup>

Mrs. Crawford moved into her house at 16213 SE 18<sup>th</sup> Circle, Vancouver, Washington, in 1990 and lived there until her death on November 22, 2002. For calendar years 1995 to 1999, Mrs. Crawford received a senior citizen exemption for property taxes on her home.<sup>2</sup> For calendar year 2000, Mrs. Crawford received capital gains that exceeded the exemption income limit, making her ineligible for the senior citizen exemption for taxes due in 2001. Mrs. Crawford

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<sup>1</sup> Both parties agree that the relevant facts are undisputed.

<sup>2</sup> Former RCW 84.36.381 (1998) states, in relevant part:

A person shall be exempt from any legal obligation to pay all or a portion of the amount of excess and regular real property taxes due and payable in the year following the year in which a claim is filed, and thereafter, in accordance with the following:

(1) The property taxes must have been imposed upon a residence which was occupied by the person claiming the exemption as a principal place of residence as of the time of filing: PROVIDED, That any person who sells, transfers, or is displaced from his or her residence may transfer his or her exemption status to a replacement residence, but no claimant shall receive an exemption on more than one residence in any year . . . .

(2) The person claiming the exemption must have owned, at the time of filing, in fee, as a life estate, or by contract purchase, the residence on which the property taxes have been imposed . . . .

. . . .

(6) For a person who otherwise qualifies under this section and has a combined disposable income of thirty thousand dollars or less, the valuation of the residence shall be the assessed value of the residence on the later of January 1, 1995, or January 1st of the assessment year the person first qualifies under this section. If the person subsequently fails to qualify under this section only for one year because of high income, this same valuation shall be used upon requalification.

informed the Clark County Assessor of this fact. Mrs. Crawford paid her 2001 taxes in full in two installments during 2001.

Mrs. Crawford's 2001 disposable income was below the \$30,000 exemption threshold. She did not request an exemption for taxes due in 2002 for tax year 2001 nor did she pay any taxes on the property in 2002 for the 2002 tax year. After her death in November 2002, Clark County sent a notice to the property address stating she owed \$2,367.41, plus \$236.74 in interest and penalties for unpaid 2002 taxes. Her estate paid \$2,604.15 for 2002 taxes.

In March 2003, the estate sold the property and paid \$1,174.17 in 2003 property taxes. On November 17, 2003, Peter Crawford (Crawford), a co-executor and co-trustee of Mrs. Crawford's estate, submitted a request to Clark County for a senior citizen property tax exemption for Mrs. Crawford and a refund for 2002 taxes. The request set her income for 2001 at \$27,410.00. The county denied the requests.

Crawford timely appealed the denial to the Clark County Board of Equalization. After the board rejected the appeal, he timely appealed to the BTA and then to Clark County Superior Court. No entity granted him relief.

Crawford, acting on behalf of the estate, appeals. He presents four related issues, arguing that: (1) the trial court erred in refusing to accept that Mrs. Crawford filed for and received an exemption in 1995 and this filed 1995 claim governed her request for a refund for her 2002 taxes; (2) in the alternative, the trial court erred in failing to relate back to the date on which Mrs. Crawford should have applied for the 2002 exemption, instead of the date on which her estate actually applied for the exemption; (3) the trial court erred in refusing to allow Mrs. Crawford's estate to recover for the overpaid taxes for the period in 2002 in which Mrs. Crawford was alive

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and eligible for the exemption; and (4) the trial court erred in refusing to consider the estate's arguments that the assessor's actions violated due process and equal protection.

## ANALYSIS

We need not reach many of the issues the parties raise to decide this matter.<sup>3</sup> Even assuming the County's construction of chapter 84.36 RCW that Mrs. Crawford was required to reapply for the exemption after her high income in 2001, is correct, we determine that the estate was able to submit an exemption application as part of its properly-filed refund request and that the County should have granted the refund because at the time Mrs. Crawford owned and occupied the property, post-2001 until her death, she was qualified to receive the exemption.

### A. Standard of Review

A party appealing an issue of law decided by the BTA to a superior court is entitled to relief if the BTA "erroneously interpreted or applied the law." RCW 34.05.570(3)(d). The de novo standard of review of the BTA decision similarly extends to this court's review of the matter. *City of Spokane v. Dep't of Revenue*, 145 Wn.2d 445, 451, 38 P.3d 1010 (2002).

### B. Statutory Interpretation

Resolution of this matter involves interpreting the statutes governing the senior property tax exemption:

The meaning of a statute is a question of law reviewed de novo.

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The court's fundamental objective is to ascertain and carry out the legislature's intent. If the statute's meaning is plain on its face, then the court must give effect to that plain meaning as an expression of legislative intent. We determine the plain meaning of a statutory provision based on the statutory language and, if necessary, in the context of related statutes which disclose legislative intent about the provision in question. If the statutory language is clear, our inquiry ends. However, if after this inquiry, the statute remains susceptible to more than one reasonable meaning, the statute is ambiguous and it is appropriate to resort to aids of statutory construction, including legislative history.

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<sup>3</sup> We do not address the county's argument that selling the property prevents the estate from seeking a refund. *See* RCW 84.69.020(16). The county, at argument, conceded that its brief to the court did not rely on this statute and that it was presenting new argument.

*Delyria v. Wash. State School for the Blind*, 165 Wn.2d 559, 562-63, 199 P.3d 980 (2009).

In general, “[a]mbiguities in taxing statutes are construed ‘most strongly against the government and in favor of the taxpayer.’” *Qwest Corp. v. City of Bellevue*, 161 Wn.2d 353, 364, 166 P.3d 667 (2007) (internal quotation marks omitted) (quoting *Estate of Hemphill v. Dep’t of Revenue*, 153 Wn.2d 544, 552, 105 P.3d 391 (2005)). We narrowly construe tax exemptions, however. *City of Kennewick v. Benton County*, 131 Wn.2d 768, 777, 935 P.2d 606 (1997). “If the legislature has created an exemption, the exemption must not be enlarged by construction since it is reasonable to presume that the legislature has granted in express terms all that it intended to grant.” WAC 458-16-100(2)(e).

#### C. The Estate Mistakenly Overpaid Property Taxes

At argument, the County and the estate agreed that had Mrs. Crawford sought the exemption before her death, she would have received it. This fact, when read in conjunction with RCW 84.69.020(7),<sup>4</sup> which allows tax refunds in cases in which a tax was overpaid as a

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<sup>4</sup> RCW 84.69.020(7) states:

On the order of the county treasurer, ad valorem taxes paid before or after delinquency shall be refunded if they were:

....

(7) Paid as a result of mistake, inadvertence, or lack of knowledge by any person exempted from paying real property taxes or a portion thereof pursuant to RCW 84.36.381 through 84.36.389, as now or hereafter amended.

result of “mistake, inadvertence, or lack of knowledge” and RCW 4.20.046(1),<sup>5</sup> which creates survivorship rights for causes of action, require that we reverse the superior court.

Initially, the estate cites an appeal to the BTA to support its argument that a taxpayer may obtain a refund even in cases in which the person seeking the refund failed to actually apply for the relevant exemption. *Inst. for Systems Biology v. Dep’t of Revenue*, No. 59668-59674, 2005 WL 936517 (Wash. Bd Of Tax Appeals Mar. 3, 2005). The institute sought a refund for overpaid property taxes on a building it no longer owned, citing RCW 84.36.815, the statute which entitles an owner to seek a refund of overpaid taxes on exempt property. *Inst. for Systems Biology*, 2005 WL 936517, at \* 5-6. The estate includes as an exhibit a publication from the Department of Revenue which states, “If you paid prior years’ taxes because of a mistake . . . you may apply for a refund . . . . You must meet all of the qualifications for the exemption as if you had applied at the time the application was due.” Property Tax Exemption for Senior Citizens and Disabled Persons at 4 (Wash. State Dep’t of Revenue 2006).

The BTA agreed that the taxpayer could receive a refund. The determination hinged on it finding that the institute, had it sought an exemption during the time it owned the property, could have received the exemption. “We find [Institute for Systems Biology] has met its burden to

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<sup>5</sup> RCW 4.20.046(1) provides, in relevant part:

All causes of action by a person or persons against another person or persons shall survive to the personal representatives of the former and against the personal representatives of the latter, whether such actions arise on contract or otherwise, and whether or not such actions would have survived at the common law or prior to the date of enactment of this section: PROVIDED, HOWEVER, That the personal representative shall only be entitled to recover damages for pain and suffering, anxiety, emotional distress, or humiliation personal to and suffered by a deceased on behalf of those beneficiaries enumerated in RCW 4.20.020, and such damages are recoverable regardless of whether or not the death was occasioned by the injury that is the basis for the action.

prove its activities during the period it occupied the facilities qualified it for the exemption.” *Inst. for Systems Biology*, 2005 WL 936517, at \* 6. An attorney general opinion clarifies that, to obtain a refund, the applicant must be eligible for an exemption but the individual does not need to actually apply for the exemption at the time the application was originally due. 1969 Op. Wash. Atty. Gen. No. 21, at 9.

The County does not dispute that at the time Mrs. Crawford owned and occupied her residence in 2002 she qualified for the exemption. Consequently, the reasoning of *Institute for Systems Biology*, that she no longer owned or occupied the property at the time her estate sought the refund for 2002 is irrelevant. 2005 WL 936517, at \* 5-6. What matters is the undisputed fact that, at the time she owned and occupied her property in 2002, she was eligible for the exemption.

D. The Estate is Eligible for a Refund

That the estate, not Mrs. Crawford, filed the actual refund request is also irrelevant. This court may look to related statutory provisions when interpreting statutes; “We determine the plain meaning of a statutory provision based on the statutory language and, if necessary, in the context of related statutes which disclose legislative intent about the provision in question.” *Delyria*, 165 Wn.2d at 563.

Both RCW 84.69.030(1)<sup>6</sup> and RCW 84.69.090<sup>7</sup> acknowledge that an estate may obtain a

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<sup>6</sup> RCW 84.69.030 provides, “Except in cases wherein the county legislative authority acts upon its own motion, no orders for a refund under this chapter shall be made except on a claim . . . [v]erified by the person who paid the tax, the person's guardian, executor or administrator.”

<sup>7</sup> RCW 84.69.090 provides, “The payment of refunds shall be made payable, at the election of the appropriate treasurer, to the taxpayer, his guardian, executor, or administrator or the owner of record of the property taxed, his guardian, executor, or administrator.”



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refund. *See also* RCW 4.20.046(1).

Because Mrs. Crawford would have obtained the exemption had she applied for it at the correct time and because her estate has the right to receive a tax refund for the period of time she occupied the property, we conclude that the superior court erred in affirming the BTA's decision to reject the estate's refund request.

We reverse.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

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Van Deren, C.J.

We concur:

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Quinn-Brintnall, J.

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Penoyar, J.